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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ALF ISAKSSON

Appeal 2015-002738
Application 13/300,056[1]
Technology Center 2400

Before JOHN A. EVANS, JASON J. CHUNG, and JOHN D. HAMANN, *Administrative Patent Judges*.

HAMANN, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant files this appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–24. We have jurisdiction under 35 U.S.C. § 6(b). We heard oral arguments on January 6, 2017. A transcript of the hearing will be added to the record in due course.

We reverse.

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[1] According to Appellant, the real party in interest is ABB Research Ltd. App. Br. 2.

THE CLAIMED INVENTION

Appellant's claimed invention relates to wireless communication in an industrial automation context, including automatically generating time slot allocation in one or more wirelessly enabled control loops which are monitored and controlled by a process control system. Spec. ¶ 2.

Claim 1 is illustrative of the subject matter of the appeal and is reproduced below.

> 1. A computer implemented method for providing a time slot allocation in a wireless communication schedule for monitoring and control of a control loop in an industrial process, said industrial process having at least one control task and a plurality of wirelessly enabled field devices; characterized by
>
> importing dependency information between a plurality of said field devices of at least one control loop from any of a computer aided design file, a process and instrumentation diagram in electronic file form, a process logic diagram in electronic file form, a process and instrumentation diagram in the form of an extended extensible markup language file, a process graphic, a controller configuration in a control system, and
>
> allocating time slots in said communication schedule to at least one of said field devices of the at least one control loop dependent at least on a dependency information between the plurality of said field devices
>
> wherein said dependency information indicates whether a control task requires as an input an output of one of said field devices or control loops.

REJECTION ON APPEAL

The Examiner rejected claims 1–24 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Nixon et al. (US 2009/0059814 A1;

published Mar. 5, 2009) (hereinafter "Nixon") and Pratt et al. (US 2008/0273486 A1; published Nov. 6, 2008) (hereinafter "Pratt").

DISPOSITIVE ISSUE ON APPEAL

The dispositive issue for this appeal is whether Nixon teaches or suggests "dependency information" between field devices, in accordance with claims 1, 14, and 24.

ANALYSIS

Appellant argues the combination of Nixon and Pratt, and Nixon in particular, fails to teach or suggest "dependency information," which, according to the claim language, "indicates whether a control task requires as an input an output of one of [the] field devices or control loops." *See, e.g.*, App. Br. 8–13. Appellant further argues the Specification describes a *dependency* as existing "in the sense that one control task in a controller may require input from another control loop in order to complete a control task." App. Br. 9–10 (citing Spec. ¶ 53, Fig. 1 (arguing "a dependency exists in control loop 21 because it requires input from both sensors S1, S2, as well as control task C2"). As to Nixon, Appellant argues instead of teaching dependency information, it teaches a graphical representation of a network reflecting the relative distances between devices, rather than depicting dependency information. App. Br. 11–12 (citing Nixon Fig. 10). Furthermore, Appellant argues Nixon's measurements of signal strength and network performance, relied upon by the Examiner, do not "indicate whether a control task requires as an input an output of one of [the] field devices or control loops." *See* Reply Br. 5–7 (citing Nixon ¶¶ 16, 56, 101, Fig. 8).

The Examiner finds the combination, and Nixon in particular, teaches or suggests the disputed limitation. *See* Ans. 11–16; Adv. Act. 2. The Examiner finds the broadest reasonable interpretation of "dependency information" covers Nixon's signal strength, time delay, and other network performance measurements, which can be used to adjust routing between field devices and scheduling of time slots. Ans. 12–13 (citing Nixon ¶¶ 16, 61, 93, 100–07, Fig. 8); Adv. Act. 2.

We are persuaded by Appellant's arguments. We find the cited portions of Nixon fail to teach or suggest the recited dependency information. *See, e.g.*, Spec. ¶ 53, claim 1; Nixon ¶¶ 16, 56, 100–07, Figs. 8, 10. We disagree with the Examiner construing "dependency information" to cover Nixon's network performance measurements. Although "the PTO must give claims their broadest reasonable construction consistent with the specification[,] . . . claims should always be read in light of the specification and teachings in the underlying patent." *In re Suitco Surface, Inc.*, 603 F.3d 1255, 1259–60 (Fed. Cir. 2010) (citation omitted); *Microsoft Corp. v. Proxyconn, Inc.*, 789 F.3d 1292, 1298 (Fed. Cir. 2015). Appellant's Specification uses the phrase "dependency information" in terms of information indicating whether a dependent device requires as an input an output of another device. *See* Spec. ¶ 53; Fig. 1; claim 1. Although the cited portions of Nixon teach paths between field devices, they fail to teach or suggest dependency information in terms of information indicating whether a dependent device requires as an input, an output of another device. Nixon ¶¶ 16, 61, 93, 100–07, Fig. 8. Additionally, we find the Examiner's reference to a multiplexer — which can pass various inputs rather than teaching a chained dependent event — as being inapposite.

Accordingly, we do not sustain the Examiner's rejection of claims 1, 14, and 24, nor the remaining claims on appeal, each of which depend, at least indirectly, from one of these independent claims.

DECISION

We reverse the Examiner's decision rejecting claims 1–24.

REVERSED